

U.S. Application No. 10/672,737, filed September 26, 2003
Attorney Docket No. 14828US02
Response AF dated October 23, 2007
In Response to Office Action Made Final mailed August 23, 2007

REMARKS

Claims 1-27 are pending. Claims 1-27 stand rejected.

It must be noted that the Office Action Made Final mailed August 23, 2007 relies heavily on Frezza at col. 1, lines 19-39. The embodiment described in Frezza at col. 1, lines 19-39 relates to the alleged prior art to Frezza and does not relate to any of the embodiments in Frezza. The teachings of Frezza **reject** the “headend apparatus” described in Background section of Frezza. Instead, Frezza finds it “advantageous to provide for decentralized control over access to a communication network. Such an arrangement would permit a simplified headend apparatus to be a simple digital data repeater which unconditionally rebroadcasts upstream received messages on a downstream channel.” Frezza at col. 1, lines 41-46. In addition, Frezza teaches away from the claimed inventions by teaching that “[i]t would be further advantageous to provide a communication network which does not rely on the headend equipment for access control because the headend environment is often very harsh.” Frezza at col. 1, lines 53-56.

Since the teachings of Detailed Description and Figures (i.e., the invention) of Frezza teaches away from the Background section, it is not proper to combine the teachings of the Background section of Frezza and the teachings of Detailed Description and the Figures (i.e., the invention) of Frezza.

Thus, it is improper for the proof of the Examiner to rely on completely different networks (i.e., the network in the Background section and the network of the Frezza invention which teaches away from the network in the Background section).

Claims 1, 4-24 and 27 stand rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 4,638,356 (“Frezza”). Applicants respectfully traverse the rejection as set forth below.

Claim 17 and claim 21 recite “a home network”. The phrase “home network” is understood by one of ordinary skill in the art. Frezza does not describe a home network as set forth in claims 17 and 21.

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Claim 1 recites “a network device deployed in a home environment”. As alleged by the Examiner, Frezza does not describe at least these elements.

On page 2 of the Office Action Made Final mailed August 23, 2007 (“Office Action Made Final”), the Examiner interpreted the “network device” as set forth in claim 1 as “service node” 34 of Frezza. However, it must be noted that service node 34 of Frezza is not “deployed in a home environment”. The service node 34 provides the cable services. Applicants respectfully submit that a service node 34 that provides cable services in Frezza is not deployed in a home environment.

The Examiner notes that “home environment” is not defined in the specification. First, Applicants respectfully submit that “home environment” has a plain and well-understood meaning. Second, Applicants respectfully submit that one of ordinary skill in the art would have no troubling understanding a “home environment”. Thirdly, since the Examiner has already perused the specification for a definition of “home environment”, Applicants respectfully submit that a fair reading of the specification should have illuminated the meaning of “home environment” should such further illumination be necessary.

In particular, Applicants note that, under an anticipation rejection under 35 U.S.C. § 102(b), each and every element must be described in Frezza. Such it not the case, especially where the Examiner’s *prima facie* case of anticipation seems to hinge on a service node 34 that provides cable services being deployed in a home environment.

For at least the above reasons, it is respectfully submitted that rejection under 35 U.S.C. § 102(b) cannot be maintained.

Claims 2, 3, 25 and 26 stand rejected under 35 U.S.C. § 103(a) as being obvious over Frezza in view of United States Patent Publication No. 2003/0126608 A1 (“Safadi”). Applicants respectfully traverse the rejection as set forth below.

Claims 2 and 3 depend from claim 1. Claim 1 recites “wherein the headend is adapted to determine whether a request to access the network device is authorized”. Claims 23 and 25 depend from claim 21. Claim 21 recites “adapting the headend to determine whether the second

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device is authorized to access the first device”.

It must be noted that the Office Action Made Final mailed August 23, 2007 relies heavily on Frezza at col. 1, lines 19-39. The embodiment described in Frezza at col. 1, lines 19-39 relates to the alleged prior art to Frezza and does not relate to any of the embodiments in Frezza. The teachings of Frezza **reject** the “headend apparatus” described in Background section of Frezza. Instead, Frezza finds it “advantageous to provide for decentralized control over access to a communication network. Such an arrangement would permit a simplified headend apparatus to be a simple digital data repeater which unconditionally rebroadcasts upstream received messages on a downstream channel.” Frezza at col. 1, lines 41-46. In addition, Frezza teaches away from the claimed inventions by teaching that “[i]t would be further advantageous to provide a communication network which does not rely on the headend equipment for access control because the headend environment is often very harsh.” Frezza at col. 1, lines 53-56.

Thus, **Frezza teaches away from the claimed inventions** and, in particular, “wherein the headend is adapted to determine whether a request to access the network device is authorized” as set forth in claim 1 and “adapting the headend to determine whether the second device is authorized to access the first device” as set forth in claim 21.

For at least the above reasons, it is respectfully submitted that the obviousness rejection cannot be maintained and that Applicants are under no obligation to submit evidence of nonobviousness.

It is therefore respectfully requested that the rejection under 35 U.S.C. § 103(a) be withdrawn with respect to claims 2, 3, 25 and 26.

In view of at least the foregoing, it is respectfully submitted that the pending claims 1-27 are in condition for allowance. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the below-listed telephone number.

With respect to the present application, Applicants hereby rescind any disclaimer of

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claim scope made in the parent application or any predecessor or related application. The Examiner is advised that any previous disclaimer of claim scope, if any, and the alleged prior art that it was made to allegedly avoid, may need to be revisited. Nor should a disclaimer of claim scope, if any, in the present application be read back into any predecessor or related application.

In view of at least the foregoing, it is respectfully submitted that the present application is in condition for allowance. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge any additional fees, to charge any fee deficiencies or to credit any overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Date: October 23, 2007

Respectfully submitted,

/Michael T. Cruz/

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